

AG Contract No.: KR02-0487TRN  
ADOT ECS File No.: JPA 02-019-Amendment ONE  
Project No.: HRF-EGR-0-760  
Section: Main Street  
TRACS No.: HF060 01C  
Budget Source Item No.: N/A  
HURF Exchange Program

AMENDMENT NO. ONE (1)

INTERGOVERNMENTAL AGREEMENT

BETWEEN  
THE STATE OF ARIZONA  
AND  
THE TOWN OF EAGAR

THIS AGREEMENT is entered into 29 November, 2004, Amendment ONE to JPA 02-019, AG Contract No.: KR02-0487TRN, filed 17 April 2004, filed with the Secretary of State under No. 25224, pursuant to Arizona Revised Statutes, § 11-951 through § 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the TOWN OF EAGAR, ARIZONA, acting by and through its MAYOR and TOWN COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 and § 28-6993(g) to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The Town is empowered by Arizona Revised Statutes § 9-240 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the Town.

The purpose of this Amendment is to add additional funding in an amount of \$156,000.00 in Fiscal Year 2004 for the construction of improvements to the Main Street.

#0/  
NO. 25224  
Filed with the Secretary of State  
Date Filed: 11/29/04  
Jenise K. Brewer  
Secretary of State

By: Darryl D. Groenewald

**THEREFORE, Agreement JPA 02-019, is AMENDED by the parties and agreed to herein as follows:**

**Recital 3. is deleted and replaced in full as follows:**

3. The State has approved the exchange of Highway User Revenue Funds (HURF) to the Town for a total amount of \$623,514.00, which includes the additional funding of \$156,000.00 in Fiscal Year 2004 for the construction of improvements to the Main Street, herein referred to as the "Project". Such funds will be repaid to the State by withholding from the Northern Arizona Council of Governments (NACOG) federal funds and the obligation authority for federal funds in the total amount of \$761,029.00, which includes \$190,406.00 for Fiscal Year 2004.

**THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows**

## **II. SCOPE OF WORK**

**Paragraph II.2.b is deleted and replaced in full as follows:**

2. The State will:

b. Withhold from NACOG, federal funds and the obligation authority of federal funds, in a total amount of \$761,029.00, which includes \$190,406.00 for Fiscal Year 2004 for construction of the Project.

## **III. MISCELLANEOUS PROVISIONS**

**Paragraph III.8 is deleted and replaced in full as follows:**

8. Pursuant to Arizona Revised Statutes, Section 11-952 (D), attached hereto and incorporated herein, is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this Agreement and that the Agreement is in proper form.

**Paragraph III.9 and 10 are added in full as follows:**

9. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

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10. Non-Availability of Funds. Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

**EXCEPT AS AMENDED herein**, all other terms and conditions of the original Agreement remain in full force and effect.

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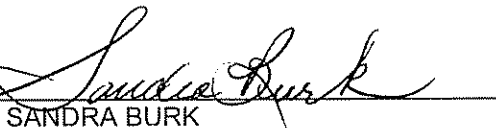
IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

TOWN OF EAGAR

STATE OF ARIZONA

Department of Transportation

By



SANDRA BURK  
Mayor

By

DALE BUSKIRK, Division Director  
Transportation Planning Division

ATTEST

By



JUDY SLADE  
Town Clerk

RESOLUTION NO. 2004- 19

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF EAGAR, COUNTY OF APACHE, STATE OF ARIZONA, AMENDING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE ARIZONA DEPARTMENT OF TRANSPORTATION (ADOT) AND THE TOWN OF EAGAR, ARIZONA, FOR THE PURPOSE OF USING HIGHWAY USER REVENUE FUNDS (HURF) EXCHANGE FUNDS FOR SIDEWALKS AND STORM DRAINS WITHIN THE TOWN OF EAGAR AND ALLOWING THE MAYOR TO SIGN APPROPRIATE DOCUMENTS.

WHEREAS, the Town of Eagar has entered into an intergovernmental agreement with respect to improving its transportation system and improving Main Street; and

WHEREAS, the amendment needs to be amended to provide additional funding for the project.

NOW THEREFORE, NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF EAGAR, ARIZONA; the Town of Eagar shall enter into Amendment No. One (1) to the Intergovernmental Agreement Between the State of Arizona and the Town of Eagar, the original contract, JPA 02-019, AG contract No. KR02-0487TRN filed April 17, 2004, with the Secretary of State under No. 25224, and the Council of the Town of Eagar hereby authorizes the Mayor of Eagar to sign the Amendment No. One(1) to the Intergovernmental Agreement as detailed above.

PASSED AND ADOPTED AND APPROVED by the Mayor and Town Council of the Town of Eagar, Arizona this 9<sup>th</sup> day of November, 2004.

ATTEST:

APPROVED:

  
JUDY SLADE, TOWN CLERK

  
SANDRA BURK, MAYOR

APPROVED AS TO FORM:

  
DOUGLAS E. BROWN, TOWN ATTORNEY

### CERTIFICATION

I hereby certify that the foregoing Resolution No. 2004- 19 was duly passed and adopted by the Mayor and the Town Council of the Town of Eagar, Arizona, at a meeting held on the 9<sup>th</sup> day of ~~November~~ November, 2004, that they vote thereon was 6 ayes, 0 nays and that the Mayor and 6 Council members were present thereat.

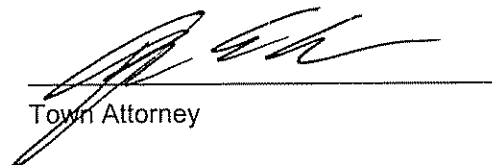
Judy Slade  
JUDY SLADE, TOWN CLERK

JPA 02-019 – Amendment ONE

APPROVAL OF THE TOWN OF EAGAR ATTORNEY

I have reviewed the above referenced intergovernmental agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the TOWN OF EAGAR, an agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this agreement to be in proper form and within the powers and authority granted to the TOWN under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 9 day of November, 2004

  
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Town Attorney



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ARIZONA

TERRY GODDARD  
ATTORNEY GENERAL

CIVIL DIVISION  
TRANSPORTATION SECTION  
WRITER'S DIRECT LINE: 602.542.8855

**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR02-0487TRN (**JPA 02-019, Amendment ONE**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: November 22, 2004

TERRY GODDARD  
Attorney General

A handwritten signature in cursive script, reading "Susan E. Davis", written over a horizontal line.

SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section